

REMARKS/ARGUMENTS

Claims 1 to 79 are pending in the application. Claims 1, 2, 4 to 62, and 65 to 79 are rejected/objection to as follows:

- Claims 6, 7, 9 to 11, 21, 23, 24, 26, 28 to 45, 48, 50, 56, 61, 70, and 79 are rejected under 35 U.S.C. § 112, second paragraph;
- Claim 79 is rejected under 35 U.S.C. § 112, second paragraph;
- Claims 6 to 9, 17, 22, 28 to 46, 48, 49, and 65 to 67 are objected to; and
- Claims 1, 2, 4 to 46, 55, 60, 62, and 79 are rejected under 35 U.S.C. § 102(e).

Claims 3, 48 to 50, 63, and 64 are objected to but are otherwise allowable with respect to prior art if written in independent form including all of the limitations of the base claim and any intervening claims. The election of species has been withdrawn. The specification is also objected to. Applicants are herein amending claims 1, 6 to 11, 17, 21 to 24, 26, 28 to 38, 41, 44, 46, 50, 56, 59, 61, 65, 67, 68, 70, 73, 74, and 77, and canceling claims 2, 3, and 79, without prejudice or disclaimer.

Amendments

Applicants are herein amending the specification to correct a number of informalities, including typographical errors, grammatical errors, and formatting errors, and to update the status of U.S. applications referred to in the specification. Applicants believe that they have addressed each issue noted in the office action. Applicants submit that no new matter is introduced by the amendments to the specification.

Applicants are herein canceling claims 2, 3, and 79, without prejudice or disclaimer.

Applicants are herein amending claim 1 to incorporate the subject matter of claim 3 (an allowable claim) into claim 1.

Applicants are herein amending claims 57 and 65 to make them independent.

Applicants are herein amending claims 1, 6 to 11, 17, 21 to 24, 26, 28 to 38, 41, 44, 46, 50, 56, 59, 61, 65, 67, 68, 70, 73, 74, and 77 to correct a number of informalities, including typographical errors, grammatical errors, formatting errors, and incorrect claim dependency. Applicants believe that they have addressed each issue noted in the office action.

Applicants submit that no new matter is introduced by the amendments to the claims.

Rejections under U.S.C. § 112, second paragraph/Claim Objections

Claims 6, 7, 9 to 11, 21, 23, 24, 26, 28 to 45, 48, 50, 56, 61, 70, and 79 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. Claim 79 is separately rejected under 35 U.S.C. § 112, second paragraph. Claims 6 to 9, 17, 22, 28 to 46, 48, 49, and 65 to 67 are also objected to. Claims 3, 63, and 64 are objected to (but are not otherwise rejected). Applicants are herein amending the specification and claims, and canceling claims 2, 3, and 79 without prejudice or disclaimer, thereby rendering moot the indefiniteness rejection of claims 6, 7, 9 to 11, 21, 23, 24, 26, 28 to 45, 48, 50, 56, 61, 70, and 79 under 35 U.S.C. § 112, second paragraph and the objection to the specification and claims 3, 6 to 9, 17, 22, 28 to 46, 48, 49, and 63 to 67. Accordingly, applicants respectfully request withdrawal of the objections to the specification and the rejection of the claims under 35 U.S.C. § 112, second paragraph.

Rejections under U.S.C. § 102(e)

Claims 1, 2, 4 to 46, 55, 60, 62, and 79 are rejected under 35 U.S.C. § 102(e) as allegedly anticipated by US-B-6,656,448 (“Carpenter”). Claims 1, 4, 5, 20, 47, 51 to 56, 60 to 62, 68 to 70, 72, and 78 are rejected under 35 U.S.C. § 102(e) as allegedly anticipated by US-A-2003/0004032 (“Liu”). Applicants respectfully submit that the remaining claims, as amended, are neither anticipated by nor rendered obvious in view of any of the cited references.

Applicants are herein amending claim 1 to incorporate the subject matter of claim 3 (a claim free of any prior art rejections) into claim 1, thereby rendering moot the prior art rejections of all of the claims that depend directly or indirectly from amended claim 1. Accordingly, applicants respectfully request withdrawal of the rejections of the claims under 35 U.S.C. § 102(e).

Rejection under U.S.C. § 103(a)

Claims 57 to 59, 65 to 67, 71, and 73 to 77 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Liu in view of US-A-5,646,167 (“MacPherson”) and European Patent 0,649,658. Applicants respectfully traverse the rejection because Liu is not available as a reference. Liu (assigned to DuPont Pharmaceuticals Company) only qualifies as prior art under 35 U.S.C. § 102(e) and was commonly assigned or subject to an obligation of assignment with the claimed invention (assigned to Bristol-Myers Squibb Pharma Company), at the time the invention was made. DuPont Pharmaceuticals Company is now a part of Bristol-Myers Squibb Pharma Company. Please see Recorded Assignment (Reel/Frame 012607/0038) Thus, in accordance with 35 U.S.C. § 103(c), Liu cannot preclude patentability.

Accordingly, applicants respectfully request withdrawal of the rejection of the claims under 35 U.S.C. § 103(a).

Conclusions

Applicants respectfully request:

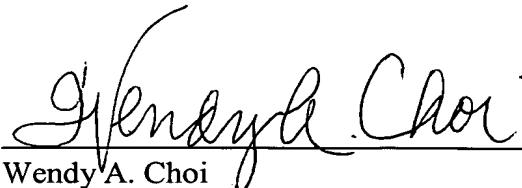
- (1) reconsideration and withdrawal of the objection to the specification;
- (2) reconsideration and withdrawal of the objection to the claims;
- (3) reconsideration and withdrawal of the rejection of the claims; and
- (4) allowance of claims 1 and 4 to 78.

If the Examiner is of a contrary view, the Examiner is requested to contact the undersigned attorney at (215) 557-3861.

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